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COMMISSION ON HUMAN RIGHTS

Fifty-first session

SUMMARY RECORD OF THE 53rd MEETING
(FIRST PART)*

Held at the Palais des Nations, Geneva,
on Friday, 3 March 1995, at 3 p.m.

Chairman: Mr. BIN HITAM (Malaysia)

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* The summary record of the second part of the meeting appears as document E/CN.4/1995/SR.53/Add.1.

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The meeting was called to order at 3.10 p.m.

REPORT OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES ON ITS FORTY-SIXTH SESSION:

(a) INDIGENOUS ISSUES

(agenda item 19) (continued) (E/CN.4/1995/L.33, L.37, L.38, L.39, L.41, L.42, L.45, L.46, L.61 and L.62, E/CN.4/1995/2-E/CN.4/Sub.2/1994/56, chapter I, section B, draft decisions 2, 3, 4, 12, 13, 14, 15, 16 and 17)

Draft resolution on the report of the Working Group on Indigenous Populations of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (E/CN.4/1995/L.61)

1. Mr. LORD (Canada), introducing the draft resolution on behalf of its sponsors, which had been joined by the delegations of Chile, Mexico and United States of America and the observers for Armenia and Bolivia, said that a technical modification had been made to paragraph 2, which should read: "Expresses its appreciation and satisfaction to the Working Group on Indigenous Populations of the Sub-Commission for its valuable work, in particular for the completion of the draft 'United Nations declaration on the rights of indigenous peoples'".

2. The sponsors of the draft resolution were in favour of continuing the mandate of the Working Group, which had a unique role to play in focusing attention on indigenous concerns and aspirations. He noted with appreciation the Working Group's ongoing efforts to define and advance the rights of indigenous people throughout the world.

3. If adopted, draft resolution E/CN.4/1995/L.61 would supersede decision 12 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities.

4. Mr. MÖLLER (Secretary of the Commission) said that the resolution was considered to fall within the scope of mandates of the Economic and Social Council, for which resources had already been provided under section 21 (human rights) of the programme budget for 1994-1995. No additional resources would, therefore, be required for the implementation of the resolution.

5. Draft resolution E/CN.4/1995/L.61, as orally revised, was adopted.

Draft resolution on the establishment of a working group of the Commission to consider the draft "United Nations declaration on the rights of indigenous peoples" as contained in the annex to resolution 1994/45 of 26 August 1994 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, with the sole purpose of providing a draft declaration for consideration and adoption by the General Assembly within the International Decade of the World's Indigenous People (E/CN.4/1995/L.62)

6. Ms. WENSLEY (Australia), introducing the draft resolution on behalf of its sponsors, which had been joined by the delegations of Chile, Mexico, and the United States of America and the observers for Armenia, Bolivia

and Sweden, said that it outlined procedures for the participation of organizations of indigenous people in the proposed open-ended inter-sessional working group and invited applications from any such organization which wished to participate. The text also specified the duration of the first meeting of the working group and called for Governments, intergovernmental organizations, non-governmental organizations (NGOs) and organizations of indigenous people authorized to participate to submit comments on the draft declaration.

7. Following lengthy consultations carried out in a spirit of cooperation, five revisions had been made to the draft text. The title of the draft text should read: "Establishment of a working group of the Commission to elaborate a draft declaration in accordance with operative paragraph 5 of General Assembly resolution 49/214".

8. In the third line of paragraph 1, the words "to consider the draft 'United Nations declaration on the rights of indigenous peoples' submitted by the Sub-Commission on Prevention of Discrimination and Protection of Minorities (resolution 1994/45 of 26 August 1994, annex) with the sole purpose of providing a draft declaration" should be replaced by "with the sole purpose of elaborating a draft declaration, considering the draft contained in the annex to resolution 1994/45 of 26 August 1994 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities entitled 'United Nations declaration on the rights of indigenous peoples'".

9. In the second line of paragraph 8, following the words "non-governmental organizations" the words "in consultative status with the Economic and Social Council" should be inserted.

10. A new paragraph should be inserted between paragraphs 8 and 9 to read: "Recommends that the Economic and Social Council take the appropriate steps to expedite the implementation of this resolution".

11. In paragraph 10, subparagraph 2, the words "to consider the draft 'United Nations declaration on the rights of indigenous peoples' submitted by the Sub-Commission on Prevention of Discrimination and Protection of Minorities (resolution 1994/45 of 26 August 1994, annex), with the sole purpose of providing a draft declaration" should be replaced by "with the sole purpose of elaborating a draft declaration, considering the draft contained in the annex to resolution 1994/45 of 26 August 1994 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities entitled 'United Nations declaration on the rights of indigenous peoples'".

12. She hoped that the draft resolution would be adopted by consensus.

13. Mr. LILLO (Chile) said that, in the Spanish version of the draft text, the word "pueblos" should replace the word "poblaciones" in the title of the draft "United Nations declaration on the rights of indigenous peoples".

14. Mr. MÖLLER (Secretary of the Commission) said that the resources required to implement the requests contained in draft resolution E/CN.4/1995/L.62 were limited to conference services in 1995 and would be absorbed within existing resources under section 41 of the programme budget for 1994-1995.

15. Mr. ZHANG Yishan (China), speaking in explanation of position, said that, while it intended to join the consensus on the draft text, his delegation did have reservations with regard to paragraph 10, subparagraph 2, under which existing overall United Nations resources would be used for the establishment of the proposed open-ended working group. The wording implied that resources already allocated for other purposes, such as development, might be used in that context.

16. Mr. SALGADO (Brazil) said that he had reservations with regard to the title of the draft declaration referred to in paragraph 1, which should not prejudice the development of the work of the proposed working group.

17. Draft resolution E/CN.4/1995/L.62, as orally revised, was adopted.

Action taken on draft decisions recommended by the Sub-Commission on Prevention of Discrimination and Protection of Minorities for adoption by the Commission on Human Rights

Draft decisions 2, 3, 4, 5, 12 and 13

18. The CHAIRMAN said that, as a result of the adoption of draft resolution E/CN.4/1995/L.39, draft decisions 2, 3 and 4, recommended by the Sub-Commission on Prevention of Discrimination and Protection of Minorities, were superseded.

19. As a result of the adoption of draft resolution E/CN.4/1995/L.42, draft decision 5, recommended by the Sub-Commission on Prevention of Discrimination and Protection of Minorities, was superseded.

20. As a result of the adoption of draft resolution E/CN.4/1995/L.61, draft decision 12, recommended by the Sub-Commission on Prevention of Discrimination and Protection of Minorities, was superseded.

21. As a result of the adoption of draft resolution E/CN.4/1995/L.41, draft decision 13, recommended by the Sub-Commission on Prevention of Discrimination and Protection of Minorities, was superseded.

Draft decision 14

22. Mr. MÖLLER (Secretary of the Commission) said that the decision was considered to fall within the scope of mandates of the Economic and Social Council, for which resources had already been provided under section 21 (human rights) of the programme budget for 1994-1995. No additional resources would, therefore, be required for the implementation of the decision.

23. Draft decision 14 was adopted.

Draft decisions 15 and 16

24. The CHAIRMAN said that, as a result of the adoption of draft resolution E/CN.4/1995/L.62, draft decision 15, recommended by the Sub-Commission on Prevention of Discrimination and Protection of Minorities, was superseded.

25. As a result of the adoption of draft resolution E/CN.4/1995/L.45, draft decision 16, recommended by the Sub-Commission on Prevention of Discrimination and Protection of Minorities, was superseded.

Draft decision 14

26. Mr. MÖller (Secretary of the Commission) said that the resources required to implement the draft decision were estimated at US$ 15,600 for 1995, US$ 15,800 for 1996 and US$ 16,100 for 1997. Those amounts would be absorbed within the existing resources of the Centre for Human Rights. No additional resources would, therefore, be required for the implementation of the decision. The additional staff requirements would have to be considered in the context of the overall staffing situation of the Centre and were not, therefore, included in the preliminary estimates.

27. Draft decision 17 was adopted.

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT, IN PARTICULAR:

(a) TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

(b) STATUS OF THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

(c) QUESTION OF ENFORCED OR INVOLUNTARY DISAPPEARANCES

(d) QUESTION OF A DRAFT OPTIONAL PROTOCOL TO THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

(agenda item 10) (continued) (E/CN.4/1995/L.40, L.43, L.44 and L.50-L.57; E/CN.4/1995/2-E/CN.4/Sub.2/1994/56, chap. I, section A, draft resolution III; chap. I, section B, draft decisions 6 and 9)

Action taken on draft decisions recommended by the Sub-Commission on Prevention of Discrimination and Protection of Minorities for adoption by the Commission on Human Rights

Draft resolution containing an amendment to draft decision 9 (E/CN.4/1995/L.40)

28. Mr. MARUYAMA (Japan), introducing draft resolution E/CN.4/1995/L.40, said that views were divided as to whether it was desirable to elaborate a third optional protocol to the International Covenant on Civil and Political Rights with a view to guaranteeing under all circumstances the right to a fair trial and a remedy. Draft resolution E/CN.4/1995/L.40 thus amended decision 9 of the Sub-Commission to reflect that lack of agreement.

29. He hoped that the draft amendment would be adopted by consensus.

30. Draft resolution E/CN.4/1995/L.40 was adopted.

Draft decision 9

31. Mr. MÖLLER (Secretary of the Commission) said that the decision was considered to fall within the scope of mandates of the Economic and Social Council, for which resources had already been provided under section 21 (human rights) of the programme budget for 1994-1995. No additional resources would, therefore, be required for the implementation of the decision.

32. Draft decision 9, as amended, was adopted.

Draft resolution on the question of a draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (E/CN.4/1995/L.43)

33. Mr. DENGO (Observer for Costa Rica), introducing the draft resolution on behalf of its sponsors, gave a summary of its history and pointed out that, for the first time, the United Nations had an opportunity to establish a mechanism which placed emphasis on prevention and dialogue in seeking to protect the dignity of persons in detention. He hoped that the draft resolution could be adopted by consensus.

34. Mr. MÖLLER (Secretary of the Commission) announced that the delegation of the United States of America and the observers for Bosnia and Herzegovina, Greece, Latvia, South Africa and Uruguay had become sponsors of the draft resolution, which was considered to fall within the scope of mandates of the Economic and Social Council, for which resources were already provided under section 21 (human rights) of the current biennium budget. No additional resources would, therefore, be required for the implementation of the resolution.

35. Draft resolution E/CN.4/1995/L.43 was adopted.

Draft resolution on the right to restitution, compensation and rehabilitation for victims of grave violations of human rights and fundamental freedoms (E/CN.4/1995/L.44)

36. Mr. PORTALES (Chile), introducing the draft resolution on behalf of its sponsors, which had been joined by the delegations of Australia, Cuba, Finland, Hungary, Philippines, Poland, Republic of Korea and the United Kingdom and by the observers for Kuwait, Portugal, South Africa and Sweden, said that it was based on a recognition of the inalienable character of human rights. The violation of such rights thus imposed upon States a duty to provide reparations for the damage caused, particularly when the right to life or the physical or mental integrity of persons was affected. The main objective of the draft resolution was to promote the exchange of experience within the framework of international cooperation in the field of human rights.

37. References to international humanitarian law had been omitted from the draft resolution, since more appropriate forums existed within which the international community could address that important subject. The draft resolution focused on the specific field of grave violations of human rights.

38. At the request of the delegation of India, the sponsors had agreed to insert the words "and the Vienna Declaration and Programme of Action" at the end of the first preambular paragraph. He hoped that the draft resolution could be adopted by consensus.

39. Draft resolution E/CN.4/1995/L.44, as orally revised, was adopted.

Draft resolution on the problem of missing persons in the territory of the former Yugoslavia (E/CN.4/1995/L.50)

40. Mr. MADEY (Observer for Croatia), introducing the draft resolution on behalf of its sponsors, which had been joined by the delegations of Austria, Bulgaria, Canada, Egypt, France, Germany, Hungary, Italy, Japan, the United Kingdom and the United States of America and the observers for Afghanistan, Denmark, Ireland, Latvia, Norway, Portugal, Sweden and Tunisia, said that, for the previous three years, his delegation had persistently tried to highlight in the Commission the humanitarian tragedy of the families of persons missing in the war against Croatia and in Bosnia and Herzegovina. If the fate of the victims of the most brutal calamity in recent European history were not resolved, the wounds would never heal and good neighbourly relations could never be established across the borders of new States.

41. It was not the intention of the sponsors to demonize one people or to politicize the question. The mechanism to be used should be humanitarian and non-accusatory in nature. However, those who refused cooperation would be held accountable just as individuals were judged not by their own history but by civilization as a whole.

42. While the sponsors recognized that the special process and the draft resolution could achieve little without the cooperation of all concerned, they nevertheless sent a strong signal of support and compassion. Even if it succeeded in resolving only a single case, the mechanism would have justified its existence.

43. The sponsors wished to make a number of minor revisions to the draft text. The words "special process dealing with the" should be inserted at the beginning of the title of the draft resolution. In the first preambular paragraph, the words "the purpose and principles of" should be deleted. In the fourth preambular paragraph, the words "and the armed conflict" should be inserted after the words "ethnic cleansing". In paragraph 1, the words "and thanks" should be inserted after "commends" and the word "first" inserted before the word "report". Finally, the words "for the cooperation extended to the special process" in paragraph 2 should be replaced by "requests them to continue and expand the cooperation with the special process,". He hoped that the draft resolution, as orally revised, could be adopted by consensus.

44. Mr. MÖLLER (Secretary of the Commission) announced that the delegations of Algeria, Bangladesh, Chile, El Salvador, Finland and Malaysia and the observers for Kuwait, Oman, Senegal and Switzerland had become sponsors of the draft resolution, which was considered to fall within the scope of the mandates of the Economic and Social Council, for which resources were already

provided under section 21 (human rights) of the current biennium budget. No additional resources would, therefore, be required for the implementation of the resolution.

45. Draft resolution E/CN.4/1995/L.50, as orally revised, was adopted.

Draft resolution on the independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers (E/CN.4/1995/L.51)

46. Mr. ROLAND (Observer for Belgium), introducing the draft resolution on behalf of its sponsors, which had been joined by the delegations of Chile, El Salvador, India, Nepal, Philippines and the Republic of Korea and the observers for Latvia, Turkey and Uruguay, said that the draft resolution was the result of a long process of consideration and discussion within both the Sub-Commission and the Commission. The preambular part of the draft resolution listed the main principles which should underpin the independence of the judiciary, jurors and assessors, and lawyers. The protection and promotion of human rights could be achieved only within the framework of the rule of law, which necessarily required an independent and impartial judiciary.

47. At the request of one delegation, the sponsors had decided to delete paragraph 5. He hoped that the draft resolution, as revised, could be adopted without a vote.

48. Mr. MÖLLER (Secretary of the Commission) said that the draft resolution was considered to fall within the scope of mandates of the Economic and Social Council, for which resources were already provided under section 21 (human rights) of the current biennium budget. No additional resources would, therefore, be required for the implementation of the resolution.

49. Draft resolution E/CN.4/1995/L.51, as orally revised, was adopted.

Draft resolution on torture and other cruel, inhuman or degrading treatment or punishment (E/CN.4/1995/L.52)

50. Mr. NIELSEN (Observer for Denmark), introducing the draft resolution on behalf of its sponsors, which had been joined by the delegations of Benin, El Salvador and the Russian Federation and the observers for Latvia, New Zealand, Senegal and Uruguay, said that the text combined the three resolutions on the question of torture which had traditionally been submitted to the Commission. Without sacrificing the gains made in the Commission and other United Nations forums, the text sought to rationalize the resolutions of the Commission without changing the substance of the previous texts.

51. In paragraph 10 of part A, the words "taking into account requests received from" should be deleted and replaced by the words "at the request of". In part B, a new third preambular paragraph should be added to read: "Taking into account General Assembly resolution 49/181 of 23 December 1994". He hoped that the draft resolution, as revised, could be adopted by consensus.

52. Mr. MORA GODOY (Cuba) said his delegation took it that the reference to "the methods of work employed by the Special Rapporteur" in paragraph 6 of

part B of the draft resolution did not signify any obligation on the part of States to accept those methods of work. Since many different methods of work were employed by the various United Nations human rights bodies, it was not necessary for the Commission to approve any particular methods of work.

53. While his delegation would join in the consensus on the draft resolution, it had some difficulties with the way in which the Special Rapporteur and other human rights mechanisms discharged their work with respect to Cuba, particularly since they strayed from their mandates and the objectives for which they had been established.

54. Mr. MÖLLER (Secretary of the Commission) said that the draft resolution was considered to fall within the scope of mandates of the Economic and Social Council, for which resources were already provided under section 21 (human rights) of the current biennium budget. No additional resources would, therefore, be required for the implementation of the resolution.

55. Draft resolution E/CN.4/1995/L.52, as orally revised, was adopted.

Draft resolution on the question of enforced disappearances (E/CN.4/1995/L.53)

56. Mr. HAREL (France), introducing the draft resolution on behalf of its sponsors, said that the report of the Working Group indicated that the practice of enforced disappearances was still prevalent and was aggravated by the impunity enjoyed by many of those responsible for such acts. The Working Group's recommendations were, therefore, particularly useful.

57. The sponsors wished to add a seventh bis preambular paragraph to read: "Taking into account the General Assembly resolution 49/181". A new paragraph 3 bis would read: "Notes that the primary role of the Working Group, as described in its reports, is to act as a channel of communication between the families of the disappeared persons and the Governments concerned, with a view to ensuring that sufficiently documented and clearly identified individual cases are investigated and to ascertain whether such information falls under its mandate and contains the required elements". In paragraph 14, the words "investigate and/or" should be inserted after the words "efforts of Governments which". In paragraph 15, the words "to take effective measures" should be replaced by the words "to consider taking effective measures". Paragraph 19 should be amended to read: "Invites again the Working Group to identify obstacles to the realization of the Declaration, to recommend ways of overcoming those obstacles and to pursue in this respect its dialogue with the Governments and institutions concerned;". Lastly, in paragraph 24, the word "Commends" should be replaced by the words "Takes note of". He hoped that the draft resolution, as revised, could be adopted by consensus.

58. Mr. MÖLLER (Secretary of the Commission) announced that the delegations of Benin, Cuba, Republic of Korea, Romania and the Russian Federation and the observers for Greece, Latvia and Luxembourg had joined the sponsors of the draft resolution, which was considered to fall within the scope of mandates of the Economic and Social Council, for which resources were already provided under section 21 (human rights) of the current biennium budget. No additional resources would, therefore, be required for the implementation of the resolution.

59. Draft resolution E/CN.4/1995/L.53, as orally revised, was adopted.

Draft resolution on staff members of the United Nations and of the specialized agencies in detention (E/CN.4/1995/L.54)

60. Mr. COELHO (Observer for Portugal), introducing the draft resolution on behalf of its sponsors, which had been joined by the delegations of Benin, Egypt, El Salvador, Netherlands and the Russian Federation and by the observers for Denmark, Latvia and Madagascar, said that the text reflected new developments on the subject, in particular the decision of the General Assembly contained in its resolution 49/59 adopting and opening for signature the Convention on the Safety of United Nations and Associated Personnel.

61. The draft resolution emphasized the importance of the provisions relating to the privileges and immunities concerning United Nations staff members, experts and their families, with particular reference to respect for their immunity from the legal process and personal arrest or detention.

62. In order to accommodate some concerns expressed and suggestions made at a later stage, the sponsors wished to modify paragraph 6, subparagraph (e) to read: "To ensure the speedy release of the United Nations staff members, experts and their families who are arrested or detained contrary to their immunities;". He hoped that the draft resolution could be adopted without a vote.

63. The draft resolution, as orally revised, was adopted.

Draft resolution on the right to freedom of opinion and expression (E/CN.4/1995/L.56)

64. Mr. LAURIN (Canada), introducing the draft resolution on behalf of its sponsors, which had been joined by the delegations of Australia, Benin, Canada, El Salvador, France, Germany, Hungary, India, Italy, Japan, Nicaragua, Poland, Romania, the Russian Federation, the United Kingdom, the United States of America and Venezuela and the observers for Argentina, Czech Republic, Denmark, Honduras, Ireland, Latvia, Norway, Portugal, Slovakia and Uruguay, said that it built on the previous year's resolution by recognizing the importance of the right to seek or have access to information, by adding translators and distributors to the list of professionals in the field of information, by urging the Special Rapporteur to bring situations of serious concern to the attention of the High Commissioner for Human Rights, and by inviting the Special Rapporteur to pay particular attention to the situation of women and the relationship between effective implementation of the right to freedom of opinion and expression and incidents of discrimination based on sex.

65. He drew attention to a number of changes that had been made to the draft resolution. In the penultimate preambular paragraph, the word "translators," should be inserted before the word "publishers". A new paragraph 2 should be inserted to read: "2. Welcomes also the Special Rapporteur's statement that the right to seek or have access to information is one of the most essential elements of freedom of speech and expression". The remaining operative paragraphs would be renumbered accordingly.

66. In new paragraph 4, the word "effectively" should be inserted after the word "mandate". In new paragraph 8, the word "translators" should again be inserted before the word "publishers". In new paragraph 9, the words "as noted in the fourth report of the Working Group on Arbitrary Detention (E/CN.4/1995/31 and Add.1-4)" should be deleted. In new paragraph 11, the words ", within the framework of his mandate," should be inserted after the words "Urges the Special Rapporteur", and the words "or where focusing attention on the situation might prevent a deterioration of the situation" deleted. In new paragraph 15, the word ", representatives" should be inserted after the words "working groups". In new paragraph 16, the word "requested" should be replaced by the words "necessary in order to permit him to fully carry out his mandate". Lastly, in new paragraph 17, the words "on country situations" should be deleted. He hoped that the draft resolution could be adopted without a vote.

67. Mr. MÖLLER (Secretary of the Commission) said that the draft resolution was considered to fall within the scope of mandates of the Economic and Social Council, for which resources were already provided under section 21 (human rights) of the current biennium budget. No additional resources would, therefore, be required for the implementation of the resolution.

68. Draft resolution E/CN.4/1995/L.56, as orally revised, was adopted.

Draft resolution on human rights in the administration of justice, in particular children and juveniles in detention (E/CN.4/1995/L.57)

69. Mr. STROHAL (Austria), introducing the draft resolution on behalf of its sponsors, said that a resolution on the subject had traditionally been submitted by his delegation for a number of years. The current draft resolution paid particular attention to the question of juveniles in detention; it also drew attention to the recommendations of the expert group meeting on children and juveniles in detention, held at Vienna from 30 October to 4 November 1994 at the invitation of his Government. The resolution also urged the High Commissioner for Human Rights to strengthen system-wide coordination and develop strategies for an effective realization of programmes in that field.

70. Three minor changes had been made to the draft text. In the last preambular paragraph, the word "paramount" should be replaced by the words "a primary consideration". At the end of paragraph 4, after the words "programmes of advisory services and technical assistance" the words "in the field of human rights" should be added. In paragraph 10, the words "to ensure" should be deleted, and the word "reflected" replaced by the words "taken into account". He apologised to those sponsors he had been unable to contact in connection with the changes, and hoped that the draft resolution could be adopted without a vote.

71. Mr. MÖLLER (Secretary of the Commission) announced that the delegations of Australia, El Salvador, Finland, Philippines, the Republic of Korea, Romania and Sri Lanka and the observers for Latvia, Madagascar, New Zealand, Slovakia, South Africa and Uruguay had become sponsors of the draft resolution.

72. Draft resolution E/CN.4/1995/L.57, as orally revised, was adopted.

Draft resolution III, recommended by the Sub-Commission on Prevention of Discrimination and Protection of Minorities, on the question of human rights and states of emergency (E/CN.4/1995/2-E/CN.4/Sub.2/1994/56, chap. I, section A)

73. The CHAIRMAN invited the Commission to consider draft resolution III recommended by the Sub-Commission for adoption.

74. Mr. MÖLLER (Secretary of the Commission) said that the resources required to implement the request contained in the draft resolution were estimated at US$ 57,700 for 1995. That amount would be absorbed within the existing resources of the Centre for Human Rights. No additional resources would therefore be required for the implementation of the resolution.

75. Draft resolution III, recommended by the Sub-Commission, was adopted.

Draft decision 6, recommended by the Sub-Commission on Prevention of Discrimination and Protection of Minorities, on recognition of gross and large-scale violations of human rights as an international crime (E/CN.4/1995/2-E/CN.4/Sub.2/1994/56, chap. I, section B)

76. The CHAIRMAN invited the Commission to consider draft decision 6 recommended by the Sub-Commission for adoption.

77. Mr. STEEL (United Kingdom) said that, while accepting that gross and large-scale violations of human rights were criminal acts and, as such, should be severely punished, a number of delegations had difficulty with the proposal to recognize such acts as international crimes.

78. The International Law Commission had, for many years, been dealing with the question of international criminal responsibility; and the length of its deliberations was an indication of the complexity of the subject. The International Law Commission and the Sixth Committee of the General Assembly were the United Nations bodies with the necessary expertise in questions of international law, and to appoint a special rapporteur to prepare a report on the recognition of gross and large-scale violations of human rights perpetrated on the orders of Governments or sanctioned by them as an international crime would be to invite duplication at a less exhaustive level of the work already being done by those bodies.

79. He thus proposed that draft decision 6 should be amended to read: "The Commission on Human Rights, noting resolution 1994/28 of 26 August 1994 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, requests the Sub-Commission to reconsider its recommendation to appoint a special rapporteur to prepare a report on the recognition of gross and large-scale violations of human rights, perpetrated on the orders of Governments or sanctioned by them, as an international crime."

80. Mr. HELLER (Mexico) said that his delegation shared the concern expressed by the representative of the United Kingdom. He proposed that, as a further clarification, the words "bearing in mind the work being done by other United Nations bodies on this issue" should be inserted at the end of the United Kingdom amendment.

81. Mr. STEEL (United Kingdom) accepted the Mexican sub-amendment.

82. The United Kingdom amendment was adopted.

83. Draft decision 6 of the Sub-Commission, as orally amended, was adopted.

FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION:

(a) ALTERNATIVE APPROACHES AND WAYS AND MEANS WITHIN THE UNITED NATIONS SYSTEM FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

(b) NATIONAL INSTITUTIONS FOR THE PROMOTION AND PROTECTION OF HUMAN RIGHTS

(c) COORDINATING ROLE OF THE CENTRE FOR HUMAN RIGHTS WITHIN THE UNITED NATIONS BODIES AND MACHINERY DEALING WITH THE PROMOTION AND PROTECTION OF HUMAN RIGHTS

(d) HUMAN RIGHTS, MASS EXODUSES AND DISPLACED PERSONS

(agenda item 11) (continued) (E/CN.4/1995/L.58-L.60 and L.63-L.65)

Draft resolution on human rights and terrorism (E/CN.4/1995/L.58)

84. Mr. URRUTIA (Peru), introducing the draft resolution on behalf of its sponsors, which had been joined by the delegations of Cuba, Egypt and Sri Lanka and the observer for Turkey, drew attention to its main features and pointed out that its content was without prejudice to the right of peoples under colonial or alien domination or foreign occupation to take any legitimate action in accordance with the Charter and the relevant provisions of the Lima Declaration. He hoped that the draft resolution could be adopted without a vote.

85. Mrs. SABHARWAL (India) said that her delegation wished to become a sponsor of the draft resolution.

86. Draft resolution E/CN.4/1995/L.58 was adopted.

Draft resolution on the protection of human rights in the context of human immunodeficiency virus (HIV) and acquired immunodeficiency syndrome (AIDS) (E/CN.4/1995/L.59)

87. Mr. KUZNIAR (Poland), introducing the draft resolution on behalf of its sponsors, said that it was the continuation of previous resolutions on the subject adopted by the Commission and took into account a number of important developments that had occurred over the past year. He drew attention to a change in the text of the draft resolution. The thirteenth preambular paragraph should read: "Alarmed at discriminatory laws and policies and the emergence of new forms of discriminatory practices which deny people living with HIV/AIDS, their families and associates as well as high-risk groups, enjoyment of their fundamental rights and freedoms". He hoped that, as in previous years, the draft resolution could be adopted without a vote.

88. Mr. MÖLLER (Secretary of the Commission) announced that the delegations of El Salvador and Italy and the observers for the Czech Republic, Greece and Madagascar had become sponsors of the draft resolution.

89. Mr. HORMEL (United States of America), explaining his delegation's position on the draft resolution, said that the United States did not recognize the existence of any category of rights specific only to persons affected by HIV or AIDS. The United States was, however, committed to promoting the human rights of persons with HIV and AIDS and condemned all forms of discrimination against such persons as well as against persons assumed to be at risk of HIV infection. Education on methods for the prevention of infection, conducted in an atmosphere of sensitivity and tolerance, should be a key element of any prevention strategy. His Government did not support any efforts to fight the spread of HIV and AIDS which incorporated discriminatory measures of any sort or violated the rights of any individual and took it that the draft resolution was consistent with that position.

90. Draft resolution E/CN.4/1995/L.59, as orally revised, was adopted.

Draft resolution on human rights and unilateral coercive measures
(E/CN.4/1995/L.60)

91. Mr. PEREZ NOVOA (Cuba), introducing the draft resolution which was consistent with the one adopted by the Commission in 1994, said that it sought to make a modest contribution to the efforts of various organizations within the United Nations system to put an end to unilateral coercive measures, which were in clear contradiction with international law and the Charter of the United Nations. It was unacceptable that some countries, using their predominant position in the world economy, should continue to adopt trade restrictions, blockades and embargoes against developing countries with the purpose of preventing them from exercising their right to self-determination. The draft resolution reaffirmed in particular that essential goods, such as food and medicines, should not be used as a tool for political pressure and that the adoption of unilateral coercive measures constituted a violation of human rights.

92. At the request of several delegations, the first word in paragraph 4, "Condemns", had been replaced by "Rejects".

93. Mr. MÖLLER (Secretary of the Commission) announced that the delegations of Angola, China and the Sudan and the observers for Iraq and the Libyan Arab Jamarihiya had become sponsors of the draft resolution.

94. Mr. EICHER (United States of America), speaking in explanation of vote before the vote, said that the draft resolution had no place in the Commission, because it dealt first and foremost with commercial relations among States, and not with human rights. It should not be confused with a text which was presented in the plenary of the General Assembly outside the human rights context.

95. The draft resolution sought to undercut a strong and successful tradition in the United Nations. In fact, so-called coercive measures, such as economic sanctions, had been a powerful and effective tool for promoting human rights,

of which recent history was replete with examples: in South Africa, economic sanctions had played an important part in bringing about the end of apartheid. The same was true in the case of Rhodesia. Economic measures had also been vital in applying pressure to Serbia to end its support for egregious human rights violations in Bosnia and Herzegovina. In Haiti, economic pressure had created the conditions needed to force the military regime to relinquish power and allow a return to democracy.

96. A vote in favour of the draft resolution would be a vote against the successful approach taken in the cases he had mentioned. The draft resolution's aim was to strip the United Nations and its Member States of one of the most effective peaceful instruments at their disposal for promoting human rights. Consequently, his delegation urged all the members of the Commission to vote against the draft resolution.

97. At the request of the representative of the United States of America, a vote was taken by roll-call on the draft resolution on human rights and unilateral coercive measures (E/CN.4/1995/L.60).

98. India, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Algeria, Angola, Brazil, Chile, China, Colombia, Cuba, Ecuador, Egypt, Ethiopia, India, Indonesia, Malaysia, Mauritania, Mexico, Nepal, Nicaragua, Pakistan, Peru, Sri Lanka, Sudan, Togo, Venezuela, Zimbabwe.

Against: Australia, Austria, Bulgaria, Canada, Finland, France, Germany, Hungary, Italy, Japan, Netherlands, Poland, Republic of Korea, Romania, Russian Federation, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Bangladesh, Benin, Bhutan, Cameroon, Côte d'Ivoire, Dominican Republic, El Salvador, Gabon, Guinea-Bissau, Malawi, Mauritius, Philippines.

99. Draft resolution E/CN.4/1995/L.60, as orally revised, was adopted by 24 votes to 17, with 12 abstentions.

Draft resolution on regional arrangements for the promotion and protection of human rights (E/CN.4/1995/L.63)

100. Mr. ROLAND (Observer for Belgium), introducing the draft resolution on behalf of its sponsors, which had been joined by the delegations of Australia, Canada, El Salvador, France, Japan, Nicaragua, Republic of Korea, Togo, United Kingdom of Great Britain and Northern Ireland, Venezuela and Zimbabwe and the observers for Malta and the former Yugoslav Republic of Macedonia, said that for a number of years, his delegation and several others had repeatedly stressed how worthwhile it would be for regional and international institutions active in promoting human rights to achieve a better coordination of their efforts. The draft resolution had been drawn up with that in mind.

101. Certain changes to the text of the draft resolution had been made at the request of several delegations: the phrase "in particular the setting up of a regional or subregional human rights arrangement in Asia" in paragraph 2 and the phrase "including government officials engaged in the administration of justice" in paragraph 7 should be deleted, and the word "agreements" in paragraph 9 should be replaced by the word "arrangements". He hoped that, as in the past, the draft resolution could be adopted without a vote.

102. Draft resolution E/CN.4/1995/L.63, as orally revised, was adopted.

Draft resolution on the Decade for Human Rights Education (E/CN.4/1995/L.64)

103. Mr. DENGO (Observer for Costa Rica), introducing the draft resolution on behalf of its sponsors, which had been joined by the delegations of Algeria, Angola, Egypt and Mauritania and the observers for Jordan and Malawi, mentioned the salient points of the text. He drew attention to a slight change in the text: in the fifth preambular paragraph, the words "indigenous peoples" should be replaced by the words "indigenous people".

104. In order to assist in achieving the success of the Decade, his Government planned to host a workshop at the end of 1995 to train human rights educators, who would play a paramount role in disseminating experience and activities, both at national and thematic levels.

105. He hoped that the draft resolution would be adopted by consensus.

106. Draft resolution E/CN.4/1995/L.64, as orally revised, was adopted.

Draft resolution on regional arrangements for the promotion and protection of human rights in the Asian and Pacific region (E/CN.4/1995/L.65)

107. Mr. NYUNG-CHUL HAHM (Republic of Korea), introducing the draft resolution on behalf of its sponsors, which had been joined by the delegations of Canada and France and the observers for Afghanistan, Mongolia and South Africa, said that the text, in line with the resolutions previously adopted by the Commission, took into account new developments and decisions concerning activities in the field of human rights in the Asia and Pacific region. Having reviewed the draft resolution's main points, he said he hoped that it could be adopted by consensus.

108. Mr. MÖLLER (Secretary of the Commission) said that the draft resolution was considered to fall within the scope of the mandates of the Economic and Social Council for which resources were already provided under section 21 (human rights) of the biennium budget. No additional resources would therefore be required for the implementation of the resolution.

109. Draft resolution E/CN.4/1995/L.65 was adopted.

The meeting was suspended at 6 p.m.